

 ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

JACK BREWER,

Defendant.

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20 Civ. 6175 (LLS)

~~PROPOSED~~ CASE MANAGEMENT AND SCHEDULING ORDER

LLS

Pursuant to Rules 16 through 26(f) of the Federal Rules of Civil Procedure, the Court hereby adopts the following Case Management and Scheduling Order proposed by the parties:

1. Appearing at the initial conference on July 23, 2021 on behalf of Plaintiff Securities Exchange Commission ("Commission"), were Preethi Krishnamurthy and Todd D. Brody. Appearing on behalf of Defendant Jack Brewer ("Brewer") was Lee A. Hutton III of The Hutton Firm, PLLC.
2. At issue in this litigation is (1) whether Brewer engaged in unlawful insider trading by selling shares of COPSync, Inc. while in possession of material, non-public information; (2) whether Brewer Capital, an investment adviser for which Brewer served as the chief executive officer and portfolio manager, failed to design and enforce written supervisory procedures to prevent the misuse of material, non-public information and whether Brewer aided and abetted such violations by Brewer Capital; and (3) whether Brewer acted as a securities broker without being associated with a

broker-dealer or registered as a broker with the Commission. Brewer disputes liability and questions the facts obtained by self-serving complaints.

3. (a) All depositions of fact witnesses will conclude on or by December 22, 2021.

The Commission presently intends on deposing the following individuals: (i) Jack Brewer, (ii) Jesse Meehan, (iii) Rami Assaf, (iv) Ronald Woessner (and potentially other COPSync board members and employees), (v) Chris Cottone, (vi) Alan Klee, (vii) Ward Leber (or other individuals at Maxim Group LLC), (viii) Michael Copin (or other individuals at Intracoastal Capital) and (ix) individuals at the following companies: Immune Therapeutics, ADiTx Therapeutics, Unique Foods, and Nutra Pharma.

Brewer presently intends on deposing the following individuals: (i) Joseph Alosa, (ii) Philip Anderson, (iii) Rami Assaf, (iv) COPSync board members, and (v) investigators.

The parties may depose different or additional witnesses, as the need arises in discovery, including based on documents produced or deposition testimony adduced during discovery. The parties have not yet scheduled depositions but shall work in good faith to do so.

- (b) The parties shall serve initial document requests no later than July 30, 2021. The parties shall substantially produce responsive, non-privileged documents (in accordance with their responses and objections to the document requests), within 30 days of service of document requests. The Commission served its first request for documents on June 15, 2021, and the parties exchanged initial disclosures on June 30-July 1, 2021.

- (c) The post-fact discovery pre-trial conference will take place on _____.
 - (d) The parties will identify experts on February 18, 2022; exchange initial expert reports on March 11, 2022; and exchange rebuttal expert reports on April 22, 2022. All depositions of experts will conclude by May 12, 2022.
 - (e) Fact discovery in this case will be completed by December 22, 2021. Expert discovery will be completed by May 12, 2022.
 - (f) The Commission will supply its pre-trial order materials to Brewer within 90 days from either the close of expert discovery (if no dispositive motion is made by either party following the close of discovery) or the decision of the Court on any dispositive motion made by either party following the close of discovery.
 - (g) Within 90 days of the Commission supplying its pre-trial order materials to Brewer, the parties will submit a pre-trial order in a form conforming with the Court's instructions together with trial briefs and proposed *voir dire* questions and jury instructions.
 - (h) The final pre-trial conference pursuant to Fed. R. Civ. P. 16(e) will take place on _____.
- 4. Excepting the confidentiality order jointly submitted by the parties and entered by the Court on July 14, 2021, the parties agree that there will be no limitations on discovery beyond those of the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Local Rules of this Court.
 - 5. To date, there are no discovery issues on which counsel have been unable to reach agreement following a good faith effort to address such issues, excepting Brewer's

intention to depose Commission attorneys about the investigation preceding this litigation. If the parties cannot reach an agreement following their meet-and-confer efforts and Brewer serves one or more deposition notices on the Commission for testimony from Commission attorneys, the Commission intends to move for a protective order. *See, e.g., SEC v. Rosenfeld*, No. 97 Civ. 1467, 1997 WL 576021 at *3 (S.D.N.Y. Sept. 16, 1997); *SEC v. Morelli*, 143 F.R.D. 42, 47 (S.D.N.Y. 1992).

6. The Commission anticipates calling an expert witness to testify as to the expected market reaction following COPSync's announcement of its sale of stock in a private offering at a discounted price.

Brewer anticipates calling expert witnesses to testify as to the industry standards associated with broker requirements, legal obligations, and defense to rebut expert witness testimony for COPSync and other witnesses.

The parties may identify different or additional subjects of expert testimony by February 18, 2022.

7. The parties anticipate that the trial in this case will take 8 days. Both parties have demanded a jury trial.
8. The Scheduling Order may be altered only on a showing of good cause not foreseeable at the time of the conference or when justice so required.

/s/ Todd D. Brody
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Dated: August 6, 2021
New York, NY

SO ORDERED.

Louis L. Stanton
Louis L. Stanton, U.S.D.J.